

**N.D.A.G. Letter to Hanson (June 2, 1988)**

June 2, 1988

Honorable Robert E. Hanson  
State Treasurer  
State Capitol  
Bismarck, ND 58505

Dear Bob:

I am writing you to follow up on my letter of March 1, 1988, concerning the ability of a deputy to act on behalf of a principal on various boards and commissions. In my letter of March 1, 1988, I indicated to you that the deputy treasurer was authorized to represent you on various boards and commissions, other than the Land Board, of which you are a member.

Recently, the North Dakota Supreme Court decision in Vallelly and Brockhoff v. Park Commissioners, 111 N.W. 615 (N.D. 1907), has been brought to my attention. In this case, the supreme court discussed the problem of unlawful delegation of authority where the power to tax is exercised by persons whose authority has not been assented to by the people. The applicability of the decision in this case to the factual situation posed by your inquiry is not clear. However, it may be argued that the presence of a deputy in place of the principal at the meeting of the entity allowed by law to cause taxes to be levied may violate this decision.

Because of the potential problem that may be caused by the use of a deputy in place of the principal at a meeting of the State Board of Equalization, I would suggest that your deputy not appear in your place at such a meeting. Such action would prevent this problem from ever occurring and would allow us to avoid questions that might occur in light of the decision of Vallelly and Brockhoff.

Sincerely,

Nicholas J. Spaeth

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